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Sequence Number: 07-01-09  
Rule ID(s): 4243  
File Date (effective date): 07/01/2009  
End Effective Date: 12/13/2009

# Emergency or Public Necessity Rule(s) Filing Form

Emergency and Public Necessity rules are effective from date of filing for a period of up to <sup>165</sup>165 days.

**Agency/Board/Commission:** Tennessee Department of Finance and Administration  
**Division:** Bureau of TennCare  
**Contact Person:** George Woods  
**Address:** Bureau of TennCare  
310 Great Circle Road  
Nashville, Tennessee  
**Zip:** 37243  
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**Email:** [george.woods@tn.gov](mailto:george.woods@tn.gov)

**Rule Type :**  
 Emergency Rule  
 Public Necessity Rule

**Revision Type (check all that apply):**  
 Amendment  
 New  
 Repeal

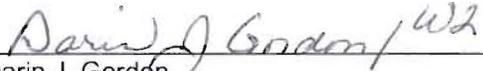
**Statement of Necessity:**

I am herewith submitting amendments to the rules of the Tennessee Department of Finance and Administration, Bureau of TennCare ("TennCare"), for promulgation pursuant to the public necessity provisions of the Uniform Administrative Procedures Act, T.C.A. § 4-5-209.

I have made a finding that amendment of the Bureau of TennCare's rule 1200-13-13-.04(7)(b) is required to comply with Senate Bill 0851, signed into law June 23, 2009, as Public Chapter 471, effective July 1, 2009. This law revises the Medical Assistance Act to permit home health services provided in the home to follow the recipient into the community for the purpose of providing services during routine activities of daily living.

Pursuant to T.C.A. § 4-5-209(4), the Commissioner is authorized to promulgate public necessity rules when required by an enactment of the general assembly to implement rules within a prescribed period of time that precludes utilization of rulemaking procedures for the promulgation of permanent rules.

For a copy of this public necessity rule, contact George Woods at the Bureau of TennCare by mail at 310 Great Circle Road, Nashville, Tennessee 37243 or by telephone at (615) 507-6446.

  
Darin J. Gordon  
Director, Bureau of TennCare

**Rule(s) Revised** (ALL chapters and rules contained in filing must be listed here. If needed, copy and paste additional tables. Please enter only **ONE** Rule Number/Rule Title per row)

<b>Chapter Number</b>	<b>Chapter Title</b>
1200-13-13	TennCare Medicaid
<b>Rule Number</b>	<b>Rule Title</b>
1200-13-13-.04	Covered Services

(Place substance of rules and other info here. Statutory authority must be given for each rule change. For information on formatting rules go to <http://state.tn.us/sos/rules/1360/1360.htm>)

Chapter 1200-13-13  
TennCare Medicaid

Amendment

Subparagraph (b) of paragraph (7) of rule 1200-13-13-.04 Covered Services is deleted in its entirety and replaced with a new subparagraph (b) which shall read as follows:

- (b) Home health nurses and aides and private duty nurses will never be authorized to personally transport a TennCare enrollee. Home health nurses and aides delivering prior approved home health care services may accompany an enrollee outside the home in accordance with T.C.A. § 71-5-107(a)(12).

Statutory Authority: T.C.A. §§ 4-5-209, 71-5-105, and 71-5-109.

GW1019163

Signature of the agency officer directly responsible for proposing and/or drafting these rules:

Darin J. Gordon / W2  
Darin J. Gordon  
Director, Bureau of TennCare  
Tennessee Department of Finance and Administration

I certify that this is an accurate and complete copy of emergency or public necessity rules, lawfully promulgated and adopted.

Date: 6.30.09

Signature: M. D. Goetz, Jr.

Name of Officer: M. D. Goetz, Jr.

Title of Officer: Commissioner, Department of Finance and Administration



Subscribed and sworn to before me on: 6.30.09

Notary Public Signature: Sherry H. Buchanan

My commission expires on: 5.2.2011

All emergency or public necessity rules provided for herein have been examined by the Attorney General and Reporter of the State of Tennessee and are approved as to legality pursuant to the provisions of the Administrative Procedures Act, Tennessee Code Annotated, Title 4, Chapter 5.

Robert E. Cooper, Jr.  
Robert E. Cooper, Jr.  
Attorney General and Reporter

6-30-09  
Date

Department of State Use Only

Filed with the Department of State on: 7/1/09

Effective for 165 days

Effective through: 12/13/09

\* Temporary rules may be effective for up to <sup>165</sup> days from the date of filing.

Tre Hargett by Alma Part, POA  
Tre Hargett  
Secretary of State

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## Additional Information Required by Joint Government Operations Committee

All agencies, upon filing a rule, must also submit the following pursuant to TCA 4-5-226(i)(1).

- (A) A brief summary of the rule and a description of all relevant changes in previous regulations effectuated by such rule;

The rule is being promulgated to point out that home health nurses and aides may accompany an enrollee outside the home for the purpose of providing prior approved home health services. The rule grants the home health agency the authority to decide whether or not the nurse or aide may accompany the service recipient outside of the home.

- (B) A citation to and brief description of any federal law or regulation or any state law or regulation mandating promulgation of such rule or establishing guidelines relevant thereto;

Rule 1200-13-13-.04(7)(b) is promulgated and adopted by the Department of Finance and Administration in accordance with and defined by Tennessee Code Annotated §§ 4-5-209, 71-5-105, and 71-5-109.

- (C) Identification of persons, organizations, corporations or governmental entities most directly affected by this rule, and whether those persons, organizations, corporations or governmental entities urge adoption or rejection of this rule;

The persons, organizations, corporations or entities most directly affected by this rule are the recipients, the providers, and the Tennessee Department of Finance and Administration.

- (D) Identification of any opinions of the attorney general and reporter or any judicial ruling that directly relates to the rule;

Rule 1200-13-13-.04(7)(b) was reviewed and approved by the Tennessee Attorney General. No additional opinion was given or requested.

- (E) An estimate of the probable increase or decrease in state and local government revenues and expenditures, if any, resulting from the promulgation of this rule, and assumptions and reasoning upon which the estimate is based. An agency shall not state that the fiscal impact is minimal if the fiscal impact is more than two percent (2%) of the agency's annual budget or five hundred thousand dollars (\$500,000), whichever is less;

The promulgation of this rule is not anticipated to have an effect on state and local government revenues and expenditures.

- (F) Identification of the appropriate agency representative or representatives, possessing substantial knowledge and understanding of the rule;

Darin J. Gordon; Director , Bureau of TennCare

- (G) Identification of the appropriate agency representative or representatives who will explain the rule at a scheduled meeting of the committees;

Darin J. Gordon; Director, Bureau of TennCare

- (H) Office address and telephone number of the agency representative or representatives who will explain the rule at a scheduled meeting of the committees; and

310 Great Circle Road  
Nashville, TN 37243  
(615) 507-6443

- (I) Any additional information relevant to the rule proposed for continuation that the committee requests.

None.